



Jeremiah W. (Jay) Nixon, Governor • Mark N. Templeton, Director

DEPARTMENT OF NATURAL RESOURCES


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W & M M
APR 15 2010
REC'D

MEMORANDUM

DATE: APR 13 2010

TO: Sarah Mangelsdorf
Attorney General's Office

FROM: Candace Bias, Environmental Specialist 
Hazardous Waste Program

SUBJECT: Transmittal of Fully-Signed Tolling Agreement

Sarah, with this memorandum, I have attached the signed Tolling Agreement with Greenleaf, L.L.C., Neosho and Pineville, Missouri.

Please take all necessary actions to copy, distribute, and finalize the Agreement.

Thank you very much for your assistance in this matter.

CB:cah

Attachment

c: Beth Koesterer, USEPA Region 7
Southwest Regional Office

TOLLING AGREEMENT BETWEEN THE MISSOURI DEPARTMENT OF NATURAL
RESOURCES, THE ATTORNEY GENERAL OF MISSOURI AND GREENLEAF, L.L.C.

This Agreement is entered into among the Missouri Department of Natural Resources (the "Department"), the Attorney General of Missouri (the "Attorney General"), and Greenleaf, L.L.C. ("Greenleaf"). The undersigned representatives of the Department, the Attorney General and Greenleaf certify that they are fully authorized to enter into the terms and conditions of this Agreement, and to execute and bind the parties to this document.

The purpose of this Agreement is to facilitate negotiations among the Department, the Attorney General and Greenleaf within the time period provided by the Agreement.

The Department, the Attorney General and Greenleaf, in consideration of the covenants set out herein, agree as follows:

1. The Department and the Attorney General contend that they presently have causes of action against Greenleaf under the Hazardous Waste Management Law and regulations promulgated thereunder.

2. This Agreement does not constitute an admission of liability on the part of Greenleaf regarding any aspect of any matters contended in paragraph 1 or elsewhere.

3. This Agreement does not constitute an admission or acknowledgment by the Department, the Attorney General or Greenleaf as to any applicable statute of limitations or that any statute of limitations at all applies. The Department and the Attorney General reserve the right to assert that no statute of limitations applies. Greenleaf reserves the right to assert statute of limitations defenses in any cause of action the Department and/or the Attorney General may file regarding the matters contended in paragraph 1, except defenses related to the tolling period established in this Agreement.

4. In order to avoid the burden and expense of litigation, and to allow time for negotiations with respect to the matters contended by the Department and the Attorney General, Greenleaf agrees that the time period between February 22, 2008 and February 26, 2010, inclusive, will not be included in computing the time limited by any statute of limitations under the causes of action that may arise out of the claims referred to in paragraph 1, if any statute of limitations is applicable. Nor will that time period be considered on a defense of laches, waiver, estoppel, or similar defense concerning timeliness of commencing a civil action. Greenleaf shall not assert, plead or raise against the Department or the Attorney General in any fashion, whether by answer, motion or otherwise, any defense or avoidance based on the running of any statute of limitations, during the aforementioned period, and any statute of limitations shall be tolled during and for that period.

5. It is understood that the Department and the Attorney General may terminate settlement negotiations and commence suit at any time, upon provision of notice to Greenleaf. Nothing herein shall preclude the commencement of any action by

the Department and/or the Attorney General to protect the public health, welfare, or the environment without provision of advance notice.

6. This Tolling Agreement does not limit in any way the nature or scope of any claims that could be brought by the Department or the Attorney General in a pleading against Greenleaf or the date on which the Department and/or the Attorney General may file such a pleading, except as expressly stated herein.

7. This Tolling Agreement does not limit in any way the nature or scope of any rights, claims, or defenses that could be brought or asserted by Greenleaf in response to any claims asserted by the Department and/or the Attorney General, except as expressly stated herein.

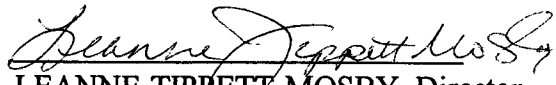
8. Each party shall preserve and maintain, during the pendency of the Tolling Period set forth in Paragraph 4, and for a minimum of 90 days after termination of the Tolling Period, at least one legible copy of all documents and other materials subject to discovery under the Missouri Rules of Civil Procedure and relating to the tolled claims, regardless of any document retention policy to the contrary.

9. This Agreement is effective upon execution by the Department, the Attorney General and Greenleaf, and without the requirement of filing with the Court.

10. This instrument contains the entire agreement between the parties regarding the tolling of any applicable statute of limitations, and no statement, promise, or inducement made by any of the parties or agent of the parties regarding tolling of any applicable statute of limitations that is not contained in this written contract shall be valid or binding; and this contract may not be enlarged, modified, or altered except in writing signed by the Department, the Attorney General and Greenleaf.

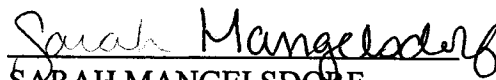
The Missouri Department of Natural Resources, the Attorney General of Missouri and Greenleaf, L.L.C., consent to the terms and conditions of this Tolling Agreement by their respective duly authorized representatives.

For the Missouri Department of Natural Resources:


LEANNE-TIPPETT-MOSBY, Director
Division of Environmental Quality
Missouri Department of Natural Resources
P.O. Box 176
Jefferson City, MO 65102

Dated: 4/12, 2010


CHRIS KOSTER
Attorney General of Missouri:


SARAH MANGELSDORF
Assistant Attorney General
State of Missouri
Office of the Attorney General
P.O. Box 899
Jefferson City, Missouri 65102

Dated: 3/24, 2010

Greenleaf, L.L.C. consents to the terms and conditions of this Tolling Agreement by its duly authorized representative.

For Greenleaf, L.L.C.:


JAMES R. HOBBS
MARILYN B. KELLER
Wyrch Hobbs & Mirakian, P.C.
1000 Walnut Street, Suite 100
Kansas City, Missouri 64106
Counsel for Greenleaf, L.L.C.

Dated: 2/23/2010, 2010